



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Robert L. Morgan
State Engineer

1636 West North Temple, Suite 220

Salt Lake City, Utah 84116-3156

801-538-7240

801-538-7315 (Fax)

April 16, 1993

TO THE WATER USERS ON THE SURPLUS CANAL, LOWER JORDAN RIVER DISTRIBUTION SYSTEM:

Two distribution system meetings were held this year on January 13th and February 12th. There was considerable discussion at both meetings regarding the installation of measuring devices and the duties of the river commissioner. This letter is based on the consensus reached at those meetings.

MEASURING DEVICES

The drought of the past few years has underlined the need for better regulation of water on the lower Jordan River especially on the Surplus Canal. The water in this area is difficult to regulate because the supply for most of the duck clubs relies on releases from the club(s) immediately upstream. Although water measurement is difficult in this area, better measurement is needed to improve regulation. Section 73-5-4 of the Utah Code Annotated, 1953 as amended, requires every person using water in the state to install and maintain a substantial headgate(s) and measuring device(s) for the purpose of controlling and regulating the water that is to be distributed. In the case of the duck club ponds the most appropriate measuring device appears to be a staff gage located in each pond to indicate water level.

Therefore, water users are hereby required to install staff gages in each of their ponds and to ensure that their headgates are suitable. The type, location, and installation of the gages must be approved by the commissioner to ensure suitability of materials, adequate coverage, and reasonable access for reading. The gages must be installed by July 1, 1993.

COMMISSIONER AUTHORITY AND DUTIES

The commissioner on the Lower Jordan River is appointed each year by the State Engineer in accordance with Section 73-5-1 of the Utah, Code Annotated, 1953, as amended. Sections 73-1-14 and 73-5-3 of the code set forth the duties and authority of the commissioner. They state in part:

The river commissioner "shall divide, or cause to be divided, the water ... among the several appropriators entitled thereto in accordance with the right of each respectively, and shall regulate and control, or cause to be controlled, the use of such water by closing or partial closing of the headgates, ... or other controlling works of any ditch, canal, ... or other means of diversion as will prevent the waste of water or its use in excess of the quantity to which any appropriator is lawfully entitled"

The river commissioner "may attach to such controlling works a written notice, properly dated and signed, setting forth that such controlling works have been properly regulated and are wholly under his control, and such notice shall be a legal notice as to the facts therein contained to all parties interested in the division and distribution of the water"



"Any person, who in any way unlawfully interferes with, injures or destroys or removes any dam, head gate, weir, or other appliance for the diversion, apportionment, measurement or regulation of water, or who interferes with any person authorized to apportion water while in the discharging of his duties, is guilty of a misdemeanor, and is also liable in damages to any person injured by such unlawful act."

As stated in the statute quoted above, John Moesser, Lower Jordan River Commissioner, is responsible to divide the water among the water users according to the water rights of record. In fulfilling this responsibility, John is authorized to change and set headgates or instruct water users to change and set headgates to assure an equitable distribution of water. If necessary, John may place a tag on or near the headgates that he has set indicating they are being regulated under the direction of the State Engineer. Anyone who tampers with or changes diversion dams or headgates which are under regulation becomes liable for prosecution under the state statutes.

The commissioner will read and record the levels once a week or more often as the situation requires and the record will be part of the annual commissioner's report which will be distributed to the State Engineer and each of the water right holders on the distribution system. The staff gages will be used as indicators in regulating the levels of the ponds when distribution is necessary between duck clubs.

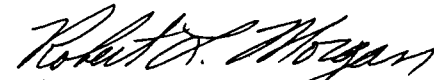
The specific distribution rules for the water users on the Surplus Canal will be as follows:

1. Any pond level changes must be coordinated with the commissioner.
2. The commissioner may make suggestions about storage in light of projected water availability, but he is not authorized to require that pond levels be kept up. The commissioner is authorized to require releases from ponds during low flow periods to satisfy downstream rights.
3. If the duck club operators do not follow the commissioner's request to release water from their ponds, the commissioner is authorized to change the headgate settings himself. In this case the commissioner will place a tag indicating the headgate is under regulation as described above. In addition to entries on the general operation of the system, the commissioner will keep journal entries of his contacts with operators, the response to his requests, and those areas where he had to personally operate the headgates to achieve the necessary distribution.
4. Under emergency conditions, water users can act first if necessary, but communication and coordination with the commissioner must be made as soon as possible.

Cooperation among water users and with the river commissioner is always important to the distribution of water, but it is especially important during dry years such as those we have experienced lately. Happily we are looking forward to a much better water supply this year, but I am still asking that the water users cooperate with each other and with the commissioner. I would hope that it would not be necessary to go beyond the request of this letter. I have asked the river commissioner to monitor the situation on the Lower Jordan River and stay in close communication with the Division of Water Rights.

If you have any questions regarding this letter please contact Jim Riley, Regional Engineer, at 538-7421 or Lee Sim, Assistant State Engineer for Distribution, at 538-7380.

Sincerely,



Robert L. Morgan, P.E.
State Engineer

cc: Lee H. Sim, Assistant State Engineer for Distribution
Jim Riley, Utah Lake / Jordan River Regional Engineer
John L. Mabey, Assistant Attorney General
John Moesser, River Commissioner